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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BARBARA A. CHRISTENSEN, MICHAEL J. HILL,
KENNETH L. REISING, JOHN C. HORTON, and EUGENE J. GRETTER

Appeal 2009-012796
Application 10/848,758¹
Technology Center 2100

Before ERIC S. FRAHM, KRISTEN L. DROESCH, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Filed on May 19, 2004. The real party in interest is Unisys Corp. (Br. 2.)

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's Non-Final Rejection of claims 1-21. (Br. 6-7).² We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We affirm.

Appellants' Invention

Appellants invented a method and apparatus for providing JavaScript access to multiple dataset comparison functions offered by legacy database management systems. (Spec. 1, l. 20-*id*, at 2, l. 1.)

Illustrative Claim

1. An apparatus for processing data upon request comprising:
 - a. a legacy data base management system having a first command language and having a plurality of datasets;
 - b. a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base;
 - c. a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language; and
 - d. a result produced by said legacy data base management system indicative of honoring said corresponding request.

Prior Art Relied Upon

Spellman US 5,917,485 June 29, 1999

² All references to the Brief are to the Brief filed December 15, 2008, which replaced the Briefs filed April 14, 2008, January 14, 2008, and November 23, 2007.

Goodwin US 2002/0023261 A1 Feb. 21, 2002

*Rejections on Appeal*³

Claims 1-21 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Applications: 1) No. 10/849,473; 2) No. 10/848,901; 3) No. 10/848,470; and 4) No. 10/848,899.⁴

Claims 1-13 and 16-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Goodwin.

Claims 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Goodwin and Spellman.

Appellants' Contentions

Appellants contend that since Goodwin only discloses a software system employed within a single computer, Goodwin cannot describe any of the environmental limitations of the claimed invention. (App. Br. 20-21.) Moreover, Appellants argue that the Goodwin's disclosure of simple database queries does not describe multiple dataset comparison. (*Id.* at 21.) Further, Appellants allege that Goodwin's disclosure of a data server does not describe the "legacy data base management system," as recited independent claim 1. (*Id.* at 22.) Appellants also contend that Goodwin fails to disclose a "plurality of datasets," let alone the "execution of a first command," as claimed. (*Id.*)

³ The Examiner withdrew the rejection of dependent claims 3, 4, and 8 as being indefinite under 35 U.S.C. § 112, second paragraph. (Ans. 9.)

⁴ See pages 2-3 of the Non-Final Rejection entered on July 11, 2008. Moreover, we note that while claims 6-10 do not appear in the statement of the rejection (Non-Final Rej. 3), claims 6-10 are listed as provisionally rejected in the table outlined by the Examiner in the body of the rejection. (*Id.*)

Additionally, Appellants argue that since Goodwin's disclosure of a client amounts to a piece of software residing in a computer system, Goodwin does not describe "a user terminal," as claimed. (*Id.* at 22-23.) Appellants also allege that Goodwin's disclosure of performing simple object-oriented access does not describe a "[service] request... for comparing some of said plurality of datasets," as claimed. (*Id.* at 23.) Moreover, Appellants contend that since Goodwin does not describe the claimed "legacy data base management system," Goodwin cannot describe "a facility located within said data base management system which parses said request...," as claimed. (*Id.* at 23-24.) Finally, Appellants argue that since Goodwin discloses simple queries that are not the result of the comparison of a plurality of datasets, Goodwin does not describe "a result," as claimed. (*Id.* at 24.)

Examiner's Findings and Conclusions

The Examiner finds that Goodwin's disclosure of a data server that provides query services to access a legacy database, whereby the data server accepts queries from a client application in standard formats and translates such queries to interact with diverse data sources, describes the "legacy data base management system" and "execution of a first command," as recited in independent claim 1. (Ans. 9-10.) The Examiner also finds that Goodwin's disclosure of a relational database management system that takes Structured Query Language statements entered by a user, and creates, updates, and provides access to a database, describes a "plurality of datasets," as claimed. (*Id.* at 10.)

Further, the Examiner finds that Goodwin's disclosure of a client application submitting object queries in standard formats to the data server

describes “a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base,” as claimed. (*Id.* at 12-13.) Additionally, the Examiner finds that Goodwin’s disclosure of a parser and interpreter that implement JavaScript templates describes “a facility,” as claimed. (*Id.* at 13-14.) Finally, the Examiner finds that Goodwin’s disclosure of the data server retrieving the elements of a query result and returning each element of the query result to a user describes “a result produced by said legacy data base management system indicative of honoring said corresponding request,” as claimed. (*Id.* at 14-15.)

II. ISSUE

Has the Examiner erred in finding that Goodwin describes the following claim limitations recited in independent claim 1:

- (a) “a legacy data base management system having a first command language and having a plurality of datasets;”
- (b) “a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base;”
- (c) “a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language;” and
- (d) “a result produced by said legacy data base management system indicative of honoring said corresponding request.”

III. FINDINGS OF FACT

The following Findings of Fact (hereinafter “FF”) are shown by a preponderance of the evidence.

Goodwin

FF 1. Goodwin’s figure 1 depicts a schematic block diagram of a computer system. (¶ [0043].) Goodwin discloses that system (100) has a processor (102) coupled to a memory (104), a plurality of storages devices (106), and a user interface (108, 110), such as a keyboard (108) and screen (110) that implements a graphical user interface (hereinafter “GUI”). (*Id.*) Goodwin discloses that the processor (102) is also coupled to hardware associated with at least one database (112). (*Id.*) In particular, Goodwin discloses that the database (112) may have its own associated hardware, including a database processor distinct from processor (102). (*Id.*)

FF 2. Goodwin discloses allowing developers to tailor their own template syntax (i.e., parser and interpreter) in which templates can be implemented. (¶ [0061].) In particular, Goodwin discloses that the preferred syntax for the templates is JavaScript. (*Id.*)

FF 3. Goodwin’s figure 3 also depicts a data server (332) that provides query services to access legacy databases, which makes available, in standard formats, data from a variety of sources. (¶ [0122].) In particular, Goodwin discloses that the data server (332) accepts queries from the client (338) application in standard formats which it then translates, as necessary, to interact with diverse data sources. (¶ [0131].)

FF 4. Goodwin’s figure 7 depicts a flowchart that illustrates steps traversed during run time execution of the data server. (¶ [0136].) In response to the execution of query, Goodwin discloses that the data server

retrieves a query result (Block 720) and returns each element of the query result by looping through an appropriate loop that passes each element to the user process or displays each element on a display (Block 722, 724, 726).

(*Id.*) After the last element has been passed or displayed, Goodwin discloses that the data server has completed processing the query. (*Id.*)

Spellman

FF 5. Spellman discloses that in order to enable a user to use either access technique (i.e., a user may activate an assistance function either through an operating system help call or through executing the assistance program and selecting the desired assistance from the functions available), the logic for each individual assistance function (i.e., applet) must be compatibly developed using a standardized approach. (Col. 2, ll. 15-18, 28-31.)

FF 6. Spellman discloses that MAPPER is a commercially available data management and reporting system provided by Unisys Corporation. (Col. 8, ll. 11-13.)

IV. ANALYSIS

Provisional Obviousness-Type Double Patenting Rejection

On the record before us, addressing the Examiner's provisional rejections would be premature. *See Ex parte Moncla*, No. 2009-006448, 2010 WL 2543659 at *2 (BPAI June 22, 2010) (precedential). We therefore do not reach the Examiner's provisional obviousness-type double patenting rejections of claims 1-21.⁵

⁵ U.S. Application No. 10/848,470 used in formulating these rejections is now U.S. Patent No. 7,548,534.

35 U.S.C. §102(e) Rejection—Goodwin

Claim 1

Independent claim 1 recites:

[1)] a legacy data base management system having a first command language and having a plurality of datasets; [2)] a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base; [3)] a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language; and [4)] a result produced by said legacy data base management system indicative of honoring said corresponding request.

As detailed in the Findings of Fact section *supra*, Goodwin discloses a computer system that has a processor coupled to both a GUI and at least one database, which may have a separate and distinct database processor. (FF 1.) Further, Goodwin discloses that the computer system software includes a data server that provides query services to access legacy databases. (FF 3.) In particular, Goodwin discloses that the data server accepts queries from a client application in standard formats, and translates such queries as necessary in order to interact with a variety of data sources stored within the legacy databases. (*Id.*)

We find that Goodwin's disclosure of a data server that accepts queries from a client in standard formats, and provides access to legacy databases that have a variety of data sources stored therein, describes "a legacy data base management system having a first command language and having a plurality of datasets," as recited in independent claim 1. Moreover, we find that Goodwin's disclosure of a processor coupled to a GUI amounts to the claimed "user terminal" because it allows clients to generate data

queries in standard formats and send such queries to the legacy databases. Therefore, we find that Goodwin describes “a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base,” as recited in independent claim 1.

Next, in order to help developers define unique services and behaviors that can be integrated into the object framework, Goodwin discloses that the developers of the computer system software can implement their own template syntax (i.e., parser and interpreter). (FF 2.) In particular, Goodwin discloses that the preferred syntax for the templates is JavaScript. (*Id.*)

We find that Goodwin’s disclosure of a developer implementing their own template syntax (i.e., parser and interpreter), such as JavaScript, into the computer system software describes a JavaScript parser and interpreter. Put another way, we find that Goodwin discloses using a JavaScript parser and interpreter to convert the data queries generated by a client in standard formats into a format capable of interacting with the variety of data sources stored in the legacy databases. Thus, we find that Goodwin describes “a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language,” as recited in independent claim 1.

Further, after executing a query, Goodwin discloses that the data server retrieves the query result, returns each element of the query result to the client, and displays each element of the query result on the client’s GUI. (FFs 1 and 4.) Consequently, we find that Goodwin’s disclosure of returning each element of a query result to the client and displaying such result on the client’s GUI describes “a result produced by said legacy data

base management system indicative of honoring said corresponding request,” as recited in independent claim 1. It follows that the Examiner has not erred in finding that Goodwin anticipates independent claim 1.

Claims 2, 5, 7, 9, 13, 19, and 20

Appellants make general allegations as to the teachings of Goodwin and submit that Goodwin does not describe each claim limitation recited in dependent claims 2, 5, 7, 9, 13, 19, and 20. (See App. Br. 25-28 and 30-32.) Such general allegations do not amount to separate patentability arguments. *See Ex parte Belinne*, No. 2009-004693, 2009 WL 2477843 at *3-4 (BPAI Aug. 10, 2009) (informative); *see also* 37 C.F.R. § 41.37(c)(1)(vii). Appellants’ arguments “do not … explain why the Examiner’s explicit fact finding is in error.” *Belinne*, 2009 WL 2477843 at *4. Therefore, Appellants have not shown reversible error in the Examiner’s rejection. It follows that the Examiner has not erred in finding that Goodwin anticipates dependent claims 2, 5, 7, 9, 13, 19, and 20.

Claims 3, 4, 6, 8, 10, 11, 12, 16, 17, 18, and 21

Appellants offer the same arguments set forth in response to the anticipation rejection of independent claim 1 to rebut the anticipation rejection of independent claims 6, 11, 16, and 21, and dependent claims 3, 4, 8, 10, 12, 17, and 18. (See App. Br. 25-32.) We have already addressed these arguments in our discussion of independent claim 1, and we found them unpersuasive. It follows that the Examiner has not erred in finding that Goodwin anticipates independent claims 6, 11, 16, and 21, and dependent claims 3, 4, 8, 10, 12, 17, and 18.

*35 U.S.C. §103(a) Rejection—Combination Goodwin and Spellman
Claims 14 and 15*

Appellants offer the same argument (i.e., Goodwin only discloses a single computer system) set forth in response to the anticipation rejection of independent claim 1 to rebut the obviousness rejection of dependent claims 14 and 15. (See App. Br. 34-35.) We have already addressed this argument in our discussion of independent claim 1, and we found it unpersuasive.

Rationale to Combine

Moreover, we are not persuaded by Appellants' argument that the Examiner does not provide a sufficient rationale to combine Goodwin and Spellman. (App. Br. 32-34.) The U.S. Supreme Court has held that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007). The Court further instructs that:

[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; . . . and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.

Id. at 418. Additionally, the Court instructs that:

‘[[r]]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

Id. (citation omitted).

Upon reviewing the record before us, we find that the Examiner's suggestion for the proposed modification in the prior art suffices as an articulated reason to establish the *prima facie* case of obviousness. In summary, we find that it would have been obvious to an ordinarily skilled artisan at the time of the claimed invention to combine Goodwin's disclosure of a data server that accepts queries from a client application in standard formats, provides access to legacy databases that have a variety of data sources stored therein, and returns each query result to the client (FFs 1-4), with Spellman's disclosure of a MAPPER database management system. (FF 6.) This proffered combination would predictably result in a MAPPER database management system that enables a user to access a variety of data sources stored therein by invoking individual assistance functions compatibly developed using a standardized approach. (FF 5.)

Further, as prescribed by the controlling case law, while it is often necessary for an Examiner to identify a reason for combining the familiar elements obtained from the prior art in establishing a *prima facie* case of obviousness, the identification of such a reason is not a *sine qua non* requirement. *See KSR*, 550 U.S. at 418-19. So long as the Examiner provides an articulated reasoning with some kind of a rational underpinning to substantiate the obviousness rejection, such a conclusion is proper. *See id.* at 418. In this case, the Examiner provided more than just a mere conclusory statement. The Examiner states that it would have been obvious to an ordinarily skilled artisan at the time the invention was made to modify Goodwin's system by using the MAPPER database management system in order to have a database management system in an efficient multi-user

environment that enables a user to utilize either access technique. (Ans. 8, 23; *see also* FF 5.) According to the Examiner, the logic for each individual assistance function for the stated purpose has been well known in that art as evidenced by the teachings of Spellman. (*Id.*) Moreover, the Examiner states that the MAPPER system in Spellman is compatible with Goodwin since the MAPPER system works in the object oriented language such as Goodwin's system. (Ans. 8.) In our view, such statements suffice as an articulated reason with a rational underpinning to support the proffered combination. It follows that the Examiner has not erred in concluding that the combination of Goodwin and Spellman renders dependent claims 14 and 15 unpatentable.

V. CONCLUSIONS OF LAW

1. We do not reach the merits of the provisional obviousness-type double patenting rejections of claims 1-21.
2. The Examiner has not erred in rejecting claims 1-13 and 16-21 as being anticipated under 35 U.S.C. § 102(e).
3. The Examiner has not erred in rejecting claims 14 and 15 as being unpatentable under 35 U.S.C. § 103(a).

VI. DECISION

We affirm the Examiner's decision to reject claims 1-13 and 16-21 as being anticipated under 35 U.S.C. § 102(e). We also affirm the Examiner's decision to reject claims 14 and 15 as being unpatentable under 35 U.S.C. § 103(a).

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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